

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6023

BILL NUMBER: SB 74

NOTE PREPARED: Oct 30, 2005

BILL AMENDED:

SUBJECT: Acquisition of Utility Property.

FIRST AUTHOR: Sen. Long

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that a municipality or a municipally owned utility may not purchase the property of a utility company that provides water or sewer service (including a regional sewer and water district) unless the Utility Regulatory Commission (IURC):

- (1) finds that the utility company has continued violations of the IURC's orders or the law regulating the utility company after the IURC has ordered compliance; or
- (2) finds after a review that the utility company has severe deficiencies that the utility company has failed to remedy.

The bill specifies that the statute prescribing the procedures for such findings by the IURC exclusively governs the acquisition of a water or sewer utility. The bill also provides that if a municipality or a municipally owned utility has initiated proceedings under another statute before the effective date of this statute, the utility to be acquired may seek injunctive relief.

The bill provides that a municipality or a public utility may not acquire any of the property of a rural electric membership corporation (REMC) without the consent of the REMC.

The bill provides that, after a municipally owned utility withdraws from the IURC's jurisdiction, the IURC continues to have jurisdiction over the utility's rates and charges that are charged to customers located outside the municipality's boundaries. It also requires the Office of Utility Consumer Counselor to represent such customers in rate cases.

Effective Date: Upon passage.

Explanation of State Expenditures: The provisions in this bill could potentially increase the administrative cost and workload of the IURC and Office of Utility Consumer Counselor (OUCC). It is presumed that these provisions can be implemented within the existing level of resources available to the IURC and OUCC.

Background Information: This bill provides that a municipality or municipally owned utility may not acquire property of a water or sewer utility unless the IURC has performed a review and has found such a utility to have:

- continued violations of the IURC's orders; or
- severe deficiencies that have not been rectified.

According to IC 8-1-30-3, the IURC may conduct such a review because of its own motion, at the request of the OUCC, or upon a customer of the utility filing a complaint. The fiscal impact of this provision will depend on actions taken by the IURC and OUCC.

IURC and OUCC Funding: The operating budgets of the IURC and the OUCC are funded by regulated utilities operating in Indiana. The IURC determines the rate at which to bill the utilities based on the two agencies' budgets, less reversions, divided by the total amount of gross intra-state operating revenue received by the regulated utilities for the previous fiscal year. Based on this formula, utilities are currently billed approximately 0.10% of their gross intra-state operating revenues to fund the IURC and OUCC. In FY 2005, fees from the utilities and fines generated approximately \$11.7 M.

Explanation of State Revenues: *Court Fee Revenue:* The bill also allows a public utility that provides water or sewer service to file an appeal for an injunction preventing a municipality or municipally owned utility from continuing proceedings to acquire the public utility in a way other than as provided for in this bill. If additional civil actions occur, revenue to the state General Fund may increase if court fees are collected. A civil filing fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 filing fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.

State Agencies Affected: Indiana Utility Regulatory Commission; Office of the Utility Consumer Counselor.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources: IC 8-1-30-3; *Budget Revenue Trial Balance*, Indiana Auditor of State, June 30, 2005.

Fiscal Analyst: Valerie Ruda, 317-232-9867.